

GOVERNMENT CODE
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Sec. 418.001. SHORT TITLE.

This chapter may be cited as the Texas Disaster Act of 1975.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 418.002. PURPOSES.

The purposes of this chapter are to:

- (1) reduce vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural or man-made catastrophes, riots, or hostile military or paramilitary action;
- (2) prepare for prompt and efficient rescue, care, and treatment of persons victimized or threatened by disaster;
- (3) provide a setting conducive to the rapid and orderly restoration and rehabilitation of persons and property affected by disasters;
- (4) clarify and strengthen the roles of the governor, state agencies, and local governments in prevention of, preparation for, response to, and recovery from disasters;
- (5) authorize and provide for cooperation in disaster mitigation, preparedness, response, and recovery;
- (6) authorize and provide for coordination of activities relating to disaster mitigation, preparedness, response, and recovery by agencies and officers of this state, and similar state-local, interstate, federal-state, and foreign activities in which the state and its political subdivisions may participate;
- (7) provide an emergency management system embodying all aspects of predisaster preparedness and postdisaster response;
- (8) assist in mitigation of disasters caused or aggravated by inadequate planning for and regulation of public and private facilities and land use; and
- (9) provide the authority and mechanism to respond to an energy emergency.

Sec. 418.003. LIMITATIONS.

This chapter does not:

- (1) limit the governor's authority to apply for, administer, or expend any grant, gift, or payment in aid of disaster mitigation, preparedness, response, or recovery;
- (2) interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this chapter or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;
- (3) interfere with dissemination of news or comment on public affairs, but any communications facility or organization, including radio and television stations, wire services, and newspapers, may be required to transmit or print public service messages furnishing information or instructions in connection with a disaster or potential disaster;

- (4) affect the jurisdiction or responsibilities of police forces, fire-fighting forces, units of the armed forces of the United States, or of any of their personnel when on active duty, but state, local, and interjurisdictional emergency management plans shall place reliance on the forces available for performance of functions related to disasters; or
- (5) limit, modify, or abridge the authority of the governor to proclaim martial law or exercise any other powers vested in the governor under the constitution or laws of this state independent of or in conjunction with any provisions of this chapter.

Sec. 418.004. DEFINITIONS.

In this chapter:

- (1) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, other public calamity requiring emergency action, or energy emergency.
- (2) "Division" means the division of emergency management in the office of the governor.
- (3) "Energy emergency" means a temporary statewide, regional, or local shortage of petroleum, natural gas, or liquid fuel energy supplies that makes emergency measures necessary to reduce demand or allocate supply.
- (4) "Interjurisdictional agency" means a disaster agency maintained by and serving more than one political subdivision.
- (5) "Organized volunteer group" means an organization such as the American National Red Cross, the Salvation Army, the Civil Air Patrol, the Radio Amateur Civil Emergency Services, a volunteer fire department, a volunteer rescue squad, or other similar organization recognized by federal or state statute, regulation, or memorandum.
- (6) "Political subdivision" means a county or incorporated city.
- (7) "Temporary housing" has the meaning assigned by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288, as amended.
- (8) "Joint board" means a board created under Section 22.074, Transportation Code, whose constituent agencies are populous home-rule municipalities as defined by Section 22.071, Transportation Code.

SUBCHAPTER B. POWERS AND DUTIES OF GOVERNOR

Sec. 418.011. RESPONSIBILITY OF GOVERNOR. The governor is responsible for meeting:

- (1) the dangers to the state and people presented by disasters; and
- (2) disruptions to the state and people caused by energy emergencies.

Sec. 418.012. EXECUTIVE ORDERS.

Under this chapter, the governor may issue executive orders, proclamations, and regulations and amend or rescind them. Executive orders, proclamations, and regulations have the force and effect of law.

Sec. 418.013. EMERGENCY MANAGEMENT COUNCIL.

- (a) The governor by executive order may establish an emergency management council to advise and assist the governor in all matters relating to disaster mitigation, preparedness, response, and recovery.
- (b) The emergency management council is composed of the heads of state agencies, boards, and commissions and representatives of organized volunteer groups.

Sec. 418.014. DECLARATION OF STATE OF DISASTER.

- (a) The governor by executive order or proclamation may declare a state of disaster if the governor finds a disaster has occurred or that the occurrence or threat of disaster is imminent.
- (b) Except as provided by Subsection (c), the state of disaster continues until the governor:
 - (1) finds that:
 - (A) the threat or danger has passed; or
 - (B) the disaster has been dealt with to the extent that emergency conditions no longer exist; and
 - (2) terminates the state of disaster by executive order.
- (c) A state of disaster may not continue for more than 30 days unless renewed by the governor. The legislature by law may terminate a state of disaster at any time. On termination by the legislature, the governor shall issue an executive order ending the state of disaster.
- (d) An executive order or proclamation issued under this section must include:
 - (1) a description of the nature of the disaster;
 - (2) a designation of the area threatened; and
 - (3) a description of the conditions that have brought the state of disaster about or made possible the termination of the state of disaster.
- (e) An executive order or proclamation shall be disseminated promptly by means intended to bring its contents to the attention of the general public. An order or proclamation shall be filed promptly with the division of emergency management, the secretary of state, and the county clerk or city secretary in each area to which it applies unless the circumstances attendant on the disaster prevent or impede the filing.

Sec. 418.015. EFFECT OF DISASTER DECLARATION.

- (a) An executive order or proclamation declaring a state of disaster:
 - (1) activates the disaster recovery and rehabilitation aspects of the state emergency management plan applicable to the area subject to the declaration; and
 - (2) authorizes the deployment and use of any forces to which the plan applies and the use or distribution of any supplies, equipment, and materials or facilities assembled, stockpiled, or arranged to be made available under this chapter or other law relating to disasters.
- (b) The preparedness and response aspects of the state emergency management plan are activated as provided by that plan.
- (c) During a state of disaster and the following recovery period, the governor is the commander in chief of state agencies, boards, and commissions having emergency responsibilities.

To the greatest extent possible, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or plans, but this chapter does not restrict the governor's authority to do so by orders issued at the time of the disaster.

Sec. 418.016. SUSPENSION OF PROCEDURAL LAWS AND RULES.

The governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster.

Sec. 418.017. USE OF PUBLIC AND PRIVATE RESOURCES.

- (a) The governor may use all available resources of state government and of political subdivisions that are reasonably necessary to cope with a disaster.
- (b) The governor may temporarily reassign resources, personnel, or functions of state executive departments and agencies or their units for the purpose of performing or facilitating emergency services.
- (c) The governor may commandeer or use any private property if the governor finds it necessary to cope with a disaster, subject to the compensation requirements of this chapter.

Sec. 418.018. MOVEMENT OF PEOPLE.

- (a) The governor may recommend the evacuation of all or part of the population from a stricken or threatened area in the state if the governor considers the action necessary for the preservation of life or other disaster mitigation, response, or recovery.
- (b) The governor may prescribe routes, modes of transportation, and destinations in connection with an evacuation.
- (c) The governor may control ingress and egress to and from a disaster area and the movement of persons and the occupancy of premises in the area.

Sec. 418.019. RESTRICTED SALE AND TRANSPORTATION OF MATERIALS.

The governor may suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles.

Sec. 418.020. TEMPORARY HOUSING.

- (a) The governor may enter into purchase, lease, or other arrangements with an agency of the United States for temporary housing units to be occupied by disaster victims and may make units available to any political subdivision.
- (b) The governor may assist a political subdivision that is the locus of temporary housing for disaster victims to acquire sites necessary for temporary housing and to do all things required to prepare the sites to receive and use temporary housing units by:
 - (1) advancing or lending funds available to the governor from any appropriation made by the legislature or from any other source;
 - (2) allocating funds made available by a public or private agency; or
 - (3) becoming a copartner with the political subdivision for the execution and performance of any temporary housing project for disaster victims.
- (c) Under regulations prescribed by the governor, the governor may temporarily suspend or modify for a period of not more than 60 days any public health, safety, zoning, intrastate transportation, or other law or regulation if by proclamation the governor considers the suspension or modification essential to provide temporary housing for disaster victims.
- (d) Any political subdivision may temporarily or permanently acquire by lease, purchase, or other means sites required for installation of temporary housing units for disaster victims and may enter into arrangements necessary to prepare or equip the sites to use the housing units, including arrangements for the purchase of temporary housing units and the payment of transportation charges.

Sec. 418.021. FEDERAL AID FOR LOCAL GOVERNMENT.

- (a) On the governor's determination that a local government of the state has suffered or will suffer a substantial loss of tax and other revenue from a major disaster and has demonstrated a need for financial assistance to perform its governmental functions, the governor may apply to the federal government on behalf of the local government for a loan and may receive and disburse the proceeds of an approved loan to the local government.
- (b) The governor may determine the amount needed by a local government to restore or resume its governmental functions and certify that amount to the federal government. The amount sought for the local government may not exceed 25 percent of the annual operating budget of the local government for the fiscal year in which the major disaster occurs.
- (c) The governor may recommend to the federal government, based on the governor's review, the cancellation of all or part of repayment if in the first three full fiscal years following the major disaster the revenues of the local government are insufficient to meet its operating expenses, including additional disaster-related expenses of a municipal operation character.

Sec. 418.022. AID FOR INDIVIDUALS.

- (a) On the governor's determination that financial assistance is essential to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster that cannot be otherwise adequately met from other means of assistance, the governor may accept a grant by the federal government to fund the financial assistance, subject to the terms and conditions imposed on the grant.

The governor may agree with the federal government or any officer or agency of the United States pledging the state to participate in funding not more than 25 percent of the financial assistance.

- (b) The governor may make financial grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster that cannot otherwise adequately be met from other means of assistance.

The grants may not exceed an aggregate amount in excess of that established by federal statute for an individual or family in any single major disaster declared by the president of the United States.

- (c) The governor may designate in the state emergency management plan the Department of Human Services or another state agency to carry out the functions of providing financial aid to individuals or families qualified for disaster relief.

The designated agency may employ temporary personnel for those functions to be paid from funds appropriated to the agency, from federal funds, or from the disaster contingency fund. The merit system does not apply to the temporary positions. The governor may allocate funds appropriated under this chapter to implement the purposes of this chapter.

Sec. 418.023. CLEARANCE OF DEBRIS.

- (a) Through the use of any state agency or instrumentality, the governor, acting through members of the Emergency Management Council, may clear or remove debris or wreckage from public or private land or water if it threatens public health or safety or public or private property in a state of disaster declared by the governor or major disaster declared by the president of the United States.
- (b) The governor may accept funds from the federal government and use the funds to make grants to a local government for the purpose of removing debris or wreckage from public or private land or water.
- (c) Debris or wreckage may not be removed from public or private property until the affected local government, corporation, organization, or individual presents to the governor or member of the Emergency Management Council an unconditional authorization for removal.

Debris or wreckage may not be removed from private property until the state is indemnified against any claim arising from removal.

In instances where it is not practical and further delay would create a greater risk to public health or safety, the governor, acting through the Emergency Management Council, may remove debris or wreckage from public or private property without an unconditional authorization or indemnification.

- (d) If the governor provides for clearance of debris or wreckage under this chapter, state employees or other individuals acting by authority of the governor may enter on private land or water to perform tasks necessary to the removal or clearance operation.

Except in cases of wilful misconduct, gross negligence, or bad faith, a state employee or agent performing his duties while complying with orders of the governor issued under this chapter is not liable for the death of or injury to a person or for damage to property.

Sec. 418.024. RULES.

The governor may adopt rules necessary for carrying out the purposes of this chapter, including rules on:

- (1) standards of eligibility for persons applying for benefits;
- (2) procedures for applying for benefits;
- (3) procedures for the administration, investigation, filing, and approval of applications for benefits;
- (4) procedures for the formation of local or statewide boards to pass on applications for benefits; and
- (5) procedures for appeals of decisions relating to applications for benefits.

SUBCHAPTER C. DIVISION OF EMERGENCY MANAGEMENT

Sec. 418.041. ORGANIZATION.

- (a) The division of emergency management is a division of the office of the governor.
- (b) The division is managed by a director appointed by the governor. The director serves at the pleasure of the governor.
- (c) The director shall appoint a state coordinator.
- (d) The division shall employ other coordinating and planning officers and other professional, technical, secretarial, and clerical personnel necessary to the performance of its functions.

Sec. 418.042. STATE EMERGENCY MANAGEMENT PLAN.

- (a) The division shall prepare and keep current a comprehensive state emergency management plan. The plan may include:
 - (1) provisions for prevention and minimization of injury and damage caused by disaster;
 - (2) provisions for prompt and effective response to disaster;
 - (3) provisions for emergency relief;
 - (4) provisions for energy emergencies;
 - (5) identification of areas particularly vulnerable to disasters;
 - (6) recommendations for zoning, building restrictions, and other land-use controls, safety measures for securing mobile homes or other nonpermanent or semipermanent structures, and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;

- (7) provisions for assistance to local officials in designing local emergency management plans;
 - (8) authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, fire, or other disaster;
 - (9) preparation and distribution to the appropriate state and local officials of state catalogs of federal, state, and private assistance programs;
 - (10) organization of manpower and channels of assistance;
 - (11) coordination of federal, state, and local emergency management activities;
 - (12) coordination of the state emergency management plan with the emergency management plans of the federal government;
 - (13) coordination of federal and state energy emergency plans; and
 - (14) other necessary matters relating to disasters.
- (b) In preparing and revising the state emergency management plan, the division shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic organizations, volunteer organizations, and community leaders.
- (c) All or part of the state emergency management plan may be incorporated into regulations of the division or executive orders that have the force and effect of law.

Sec. 418.043. OTHER POWERS AND DUTIES.

The division shall:

- (1) determine requirements of the state and its political subdivisions for food, clothing, and other necessities in event of a disaster;
- (2) procure and position supplies, medicines, materials, and equipment;
- (3) adopt standards and requirements for local and interjurisdictional emergency management plans;
- (4) periodically review local and interjurisdictional emergency management plans;
- (5) coordinate deployment of mobile support units;
- (6) establish and operate training programs and programs of public information or assist political subdivisions and emergency management agencies to establish and operate the programs;
- (7) make surveys of public and private industries, resources, and facilities in the state that are necessary to carry out the purposes of this chapter;
- (8) plan and make arrangements for the availability and use of any private facilities, services, and property and provide for payment for use under terms and conditions agreed on if the facilities are used and payment is necessary;

- (9) establish a register of persons with types of training and skills important in disaster mitigation, preparedness, response, and recovery;
- (10) establish a register of mobile and construction equipment and temporary housing available for use in a disaster;
- (11) prepare, for issuance by the governor, executive orders and regulations necessary or appropriate in coping with disasters;
- (12) cooperate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster mitigation, preparation, response, and recovery; and
- (13) do other things necessary, incidental, or appropriate for the implementation of this chapter.

Sec. 418.044. ASSISTANCE IN DEVELOPMENT OF LOCAL PLANS.

- (a) The division shall take an integral part in the development and revision of local and interjurisdictional emergency management plans. For that purpose, the division shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions and emergency management agencies.

Those personnel shall consult with the subdivisions and agencies on a regularly scheduled basis and shall make field reviews of the areas, circumstances, and conditions to which particular local and interjurisdictional emergency management plans apply and may suggest revisions.

- (b) The division shall encourage local and interjurisdictional agencies to seek advice from local government, business, labor, industry, agriculture, civic organizations, volunteer organizations, and community leaders.

Sec. 418.045. TEMPORARY PERSONNEL.

The division may employ or contract with temporary personnel from funds appropriated to the division, from federal funds, or from the disaster contingency fund. The merit system does not apply to the temporary or contract positions.

Sec. 418.046. ASSISTANCE TO AVIATORS.

- (a) The division may provide assistance to private aviators, including partial reimbursement for funds expended, to meet the actual costs of aircraft operation in performing search, rescue, or disaster-related functions requested by the governor or the governor's designee.
- (b) Any reimbursement must be limited to the actual cost of aircraft operation not reimbursable from other sources.

Sec. 418.0461. ASSISTANCE TO CIVIL AIR PATROL.

The division may provide financial assistance to the Civil Air Patrol, Texas Wing, to support the wing's disaster-related activities that assist the state and state agencies and the wing's training and exercises associated with those activities.

Sec. 418.047. COMMUNICATIONS.

- (a) In cooperation with other state agencies, the division shall ascertain what means exist for rapid and efficient communication in times of disaster.
- (b) The division shall consider the desirability of supplementing the communication resources or integrating them into a state or state-federal telecommunication or other communication system or network.
- (c) In studying the character and feasibility of any system or its parts, the division shall evaluate the possibility of its multipurpose use for general state and local governmental purposes.
- (d) The division shall make recommendations to the governor as appropriate.

Sec. 418.048. MONITORING WEATHER; SUSPENSION OF WEATHER MODIFICATION.

- (a) The division shall keep continuously apprised of weather conditions that present danger of climatic activity, such as precipitation, severe enough to constitute a disaster.
- (b) If the division determines that precipitation that may result from weather modification operations, either by itself or in conjunction with other precipitation or climatic conditions or activity, would create or contribute to the severity of a disaster, it shall request in the name of the governor that the officer or agency empowered to issue permits for weather modification operations suspend the issuance of permits.

On the governor's request, no permits may be issued until the division informs the officer or agency that the danger has passed.

SUBCHAPTER D. FINANCE

Sec. 418.071. STATE POLICY.

It is the intent of the legislature and the policy of the state that funds to meet disaster emergencies always be available.

Sec. 418.072. DISASTER EMERGENCY FUNDING BOARD.

The disaster emergency funding board is composed of:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the commissioner of insurance;
- (4) the commissioner of the Department of Human Services; and
- (5) the director of the division.

Sec. 418.073. DISASTER CONTINGENCY FUND.

- (a) The disaster contingency fund consists of money appropriated to the fund.

- (b) If the governor finds that the demands placed on funds regularly appropriated to state and local agencies are unreasonably great for coping with a particular disaster, the governor with the concurrence of the disaster emergency funding board may make funds available from the disaster contingency fund. It is the intent of the legislature that first recourse be to the funds regularly appropriated to state and local agencies.

Sec. 418.074. ACCEPTANCE AND ALLOCATION OF GIFTS AND GRANTS.

- (a) If the federal government, another public or private agency, or an individual offers to the state or through the state to a political subdivision services, equipment, supplies, materials, or funds as a gift, grant, or loan for purposes of emergency services or disaster recovery, the governor (if required by the donor) or the presiding officer of the governing body of the political subdivision may accept the offer on behalf of the state or political subdivision, as applicable.
- (b) If a gift, grant, or loan is accepted by the state, the governor, or the emergency management council or state coordinator if designated by the governor, may dispense the gift, grant, or loan directly to accomplish the purpose for which it was made or may allocate and transfer to a political subdivision services, equipment, supplies, materials, or funds in the amount the governor or the governor's designee may determine.
- (c) Funds received by the state shall be placed in one or more special funds and shall be disbursed by warrants issued by the comptroller on order of the governor or the governor's designee. The governor shall name the designee in a written agreement accepting the funds or in a written authorization filed with the secretary of state. On receipt of an order for disbursement, the comptroller shall issue a warrant without delay.
- (d) If the funds are to be used for purchase of equipment, supplies, or commodities of any kind, it is not necessary that bids be obtained or that the purchases be approved by any other agency.
- (e) A political subdivision may accept and use all services, equipment, supplies, materials, and funds to the full extent authorized by the agreement under which they are received by the state or political subdivision.

SUBCHAPTER E. LOCAL AND INTERJURISDICTIONAL EMERGENCY MANAGEMENT

Sec. 418.101. ALL POLITICAL SUBDIVISIONS SERVED.

- (a) Each political subdivision is within the jurisdiction of and served by the division and by a local or interjurisdictional agency responsible for disaster preparedness and coordination of response.
- (b) The presiding officer of the governing body of each political subdivision shall notify the division of the manner in which the political subdivision is providing or securing an emergency management program, identify the person who heads the agency responsible for the program, and furnish additional pertinent information that the division requires. The person so designated shall accomplish training prescribed by the division.

Sec. 418.102. COUNTY PROGRAMS.

- (a) Each county shall maintain an emergency management program or participate in a local or interjurisdictional emergency management program that, except as otherwise provided by this chapter, has jurisdiction over and serves the entire county or interjurisdictional area.
- (b) The county program is the first channel through which a municipal corporation or a joint board shall request assistance when its resources are exceeded. Requests that exceed the county capability shall be forwarded to the state as prescribed in the state emergency management plan.

Sec. 418.103. MUNICIPAL PROGRAMS.

- (a) The governor shall determine which municipal corporations need emergency management programs of their own and shall recommend that they be established and maintained. The governor shall make the determinations on the basis of the municipality's disaster vulnerability and capability of response related to population size and concentration.
- (b) The emergency management program of a county must be coordinated with the emergency management programs of municipalities situated in the county but does not apply in a municipality having its own emergency management program.

Sec. 418.104. INTERJURISDICTIONAL PROGRAMS.

The governor may recommend that a political subdivision establish and maintain a program and form an interjurisdictional agency jointly with one or more other political subdivisions if the governor finds that the establishment and maintenance of a joint program or participation in it is made necessary by circumstances or conditions that make it unusually difficult to provide disaster mitigation, preparedness, response, or recovery services under other provisions of this chapter.

Sec. 418.105. LIAISON OFFICERS.

- (a) Each city that does not have a program and has not made arrangements to secure or participate in the services of an existing program shall designate a liaison officer to facilitate the cooperation and protection of the city in the work of disaster mitigation, preparedness, response, and recovery.
- (b) Each county shall provide an office and a liaison officer to coordinate with state and federal emergency management personnel concerning disaster mitigation, preparedness, response, and recovery activities under other provisions of this chapter.

Sec. 418.106. LOCAL AND INTERJURISDICTIONAL EMERGENCY MANAGEMENT PLANS.

- (a) Each local and interjurisdictional agency shall prepare and keep current an emergency management plan for its area providing for disaster mitigation, preparedness, response, and recovery.
- (b) The plan must provide for:
 - (1) wage, price, and rent controls and other economic stabilization methods in the event of a disaster; and
 - (2) curfews, blockades, and limitations on utility use in an area affected by a disaster, rules governing entrance to and exit from the affected area, and other security measures.
- (c) The local or interjurisdictional emergency management agency shall prepare in written form and distribute to all appropriate officials a clear and complete statement of the disaster responsibilities of all local agencies and officials and of the disaster channels of assistance.
- (d) Each local or interjurisdictional agency shall conduct at least one public meeting each calendar year to exchange information about its emergency management plan. Each agency shall provide written notice of the date, time, and location of the meeting, not later than the fifth day before the meeting, to the pipeline safety section of the gas services division of the Railroad Commission of Texas.

- (e) An emergency management plan of an agency is excepted from the requirements of Subsection (d) if:
 - (1) the emergency management plan contains sensitive information relating to critical infrastructures or facilities; and
 - (2) the safety or security of those infrastructures or facilities could be jeopardized by disclosure of the emergency management plan.

Sec. 418.107. LOCAL FINANCE.

- (a) A political subdivision may make appropriations for emergency management services as provided by law for making appropriations for ordinary expenses.
- (b) Political subdivisions may make agreements for the purpose of organizing emergency management service divisions and provide for a mutual method of financing the organization of units on a basis satisfactory to the subdivisions. The functioning of the units shall be coordinated by the emergency management council.
- (c) A political subdivision may render aid to other subdivisions under mutual aid agreements.
- (d) A political subdivision may issue time warrants for the payment of the cost of any equipment, construction, acquisition, or any improvements for carrying out this chapter. The warrants shall be issued in accordance with Chapter 252, Local Government Code, in the case of a municipality, or Subchapter C, Chapter 262, Local Government Code, in the case of a county.

Time warrants issued for financing permanent construction or improvement for emergency management purposes are subject to the right of the voters to require a referendum vote under Section 252.045 or 262.029, Local Government Code, as applicable.

Sec. 418.108. DECLARATION OF LOCAL DISASTER.

- (a) Except as provided by Subsection (e), the presiding officer of the governing body of a political subdivision may declare a local state of disaster.
- (b) A declaration of local disaster may not be continued or renewed for a period of more than seven days except with the consent of the governing body of the political subdivision or the joint board as provided by Subsection (e), as applicable.
- (c) An order or proclamation declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the city secretary, the county clerk, or the joint board's official records, as applicable.
- (d) A declaration of local disaster activates the recovery and rehabilitation aspects of all applicable local or interjurisdictional emergency management plans and authorizes the furnishing of aid and assistance under the declaration. The preparedness and response aspects of the plans are activated as provided in the plans.
- (e) The chief administrative officer of a joint board has exclusive authority to declare that a local state of disaster exists within the boundaries of an airport operated or controlled by the joint board, regardless of whether the airport is located in or outside the boundaries of a political subdivision.

Sec. 418.109. MUTUAL AID.

- (a) The division shall encourage and assist political subdivisions not participating in interjurisdictional arrangements under this chapter to make suitable arrangements for furnishing mutual aid in coping with disasters. The arrangements must include provision of aid by public employees and agencies.
- (b) In reviewing local emergency management plans, the division shall consider whether a plan contains adequate provisions for the rendering and receipt of mutual aid.
- (c) In reviewing local and interjurisdictional emergency management plans, the division may require mutual aid agreements between political subdivisions if it determines that the political subdivisions have available equipment, supplies, and forces necessary to provide mutual aid on a regional basis and that the political subdivisions have not already made adequate provisions for mutual aid.
- (d) A municipality, county, emergency services district, fire protection agency, organized volunteer group, or other emergency services entity may provide mutual aid assistance on request from another municipality, county, emergency services district, fire protection agency, organized volunteer group, or other emergency services entity.

The chief or highest ranking officer of the entity from which assistance is requested, with the approval and consent of the presiding officer of the governing body of that entity, may provide that assistance while acting in accordance with the policies, ordinances, and procedures established by the governing body of that entity and consistent with any mutual aid plans developed by the emergency management council.

Sec. 418.110. STATEWIDE MUTUAL AID PROGRAM FOR FIRE EMERGENCIES.

The division, in consultation with the Texas Commission on Fire Protection, shall develop a statewide mutual aid program for fire emergencies.

SUBCHAPTER F. DISASTER MITIGATION

Sec. 418.121. DUTY OF GOVERNOR.

- (a) In addition to disaster mitigation measures included in the state, local, and interjurisdictional emergency management plans, the governor shall as a continuing duty consider steps that could be taken to mitigate the harmful consequences of disasters.
- (b) At the direction of the governor and pursuant to any other authority and competence a state agency may have, a state agency shall study matters related to disaster mitigation.

This includes agencies charged with responsibility in connection with floodplain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land use planning, and construction standards.

- (c) The governor shall from time to time make recommendations to the legislature, local governments, and other appropriate public and private entities as may facilitate measures to mitigate the harmful consequences of disasters.

Sec. 418.122. STATE STUDY OF LAND USE AND CONSTRUCTION STANDARDS.

- (a) The Texas Natural Resource Conservation Commission and other state agencies, in conjunction with the division, shall keep land uses and construction of structures and other facilities under continuing study and shall identify areas that are particularly susceptible to severe land shifting, subsidence, flooding, or other catastrophes.
- (b) The studies shall concentrate on means of reducing or avoiding the dangers and consequences of a catastrophe.

Sec. 418.123. RECOMMENDATIONS FOR CHANGES IN LAND USE OR CONSTRUCTION STANDARDS.

- (a) The division shall recommend to the governor the changes it considers essential if the division believes, on the basis of the studies under Section 418.122 or other competent evidence that:
 - (1) an area is susceptible to a disaster of catastrophic proportions without adequate warning;
 - (2) existing building standards and land-use controls in that area are inadequate and could add substantially to the magnitude of the disaster; and
 - (3) changes in zoning regulations, other land-use regulations, or building requirements are essential to further the purposes of this subchapter.
- (b) The governor shall review the recommendations. If after public hearing the governor finds the changes are essential, the governor shall make appropriate recommendations to the agencies or local governments with jurisdiction over the area and subject matter.
- (c) If no action or insufficient action pursuant to the governor's recommendations is taken within the time specified by the governor, the governor shall inform the legislature and request legislative action appropriate to mitigate the impact of the disaster.

Sec. 418.124. SUSPENSION OF LAND USE OR CONSTRUCTION STANDARDS.

- (a) When the governor makes recommendations under Section 418.123, the governor may suspend the standard or control found to be inadequate to protect the public safety and by rule may place a new standard or control in effect.
- (b) The new standard or control remains in effect until rejected by concurrent resolution of both houses of the legislature or amended by the governor.
- (c) During the time the new standard or control is in effect, it shall be administered and given effect by all appropriate regulatory agencies of the state and of the local governments to which it applies.
- (d) The governor's action under this section is subject to judicial review but is not subject to temporary stay pending litigation.

SUBCHAPTER G. CITIZEN DUTIES AND CLAIMS FOR COMPENSATION

Sec. 418.151. CITIZEN DUTIES.

- (a) Each person in this state shall conduct himself and keep and manage his affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public successfully to manage emergencies. This obligation includes appropriate personal service and use or restriction on the use of property in time of disaster.
- (b) This chapter neither increases nor decreases these obligations but recognizes their existence under the constitution and statutes of this state and the common law.

Sec. 418.152. COMPENSATION FOR SERVICES AND PROPERTY.

- (a) Services or the taking or use of property shall be compensated only to the extent that:
 - (1) the obligations recognized in this chapter are exceeded in a particular case; and
 - (2) the claimant may not be considered to have volunteered services or property without compensation.
- (b) Personal services may not be compensated by the state or a subdivision or agency of the state except under statute or ordinance.
- (c) Compensation for property may be made only if the property was commandeered or otherwise used in coping with a disaster and its use or destruction was ordered by the governor or a member of the disaster forces of this state.

Sec. 418.153. COMPENSATION CLAIMS.

- (a) A person claiming compensation for the use, damage, loss, or destruction of property under this chapter shall file a claim for compensation with the division in the form and manner required by the division.
- (b) Unless the amount of compensation on account of property damage, loss, or destruction is agreed on between the claimant and the division, the amount of compensation is computed in the same manner as compensation due for taking of property under the condemnation laws of this state.

Sec. 418.154. CERTAIN CLAIMS EXCLUDED.

This subchapter does not apply to or authorize compensation for:

- (1) the destruction or damaging of standing timber or other property in order to provide a firebreak;
- (2) the release of water or breach of impoundments in order to reduce pressure or other danger from actual or threatened flood; or
- (3) contravention of Article I, Section 17, of the Texas Constitution or statutes pertaining to that section.

SUBCHAPTER H. MISCELLANEOUS PROVISIONS

Sec. 418.171. QUALIFICATIONS FOR RENDERING AID.

A person who holds a license, certificate, or other permit issued by a state or political subdivision of any state evidencing the meeting of qualifications for professional, mechanical, or other skills may render aid involving the skill in this state to meet an emergency or disaster. This state shall give due consideration to the license, certificate, or other permit.

Sec. 418.172. INSURANCE COVERAGE.

- (a) Property damage insurance covering state facilities may be purchased by agencies of the state if necessary to qualify for federal disaster assistance funds.
- (b) If sufficient funds are not available for the required insurance, an agency may petition the disaster emergency funding board to purchase the insurance on the agency's behalf. The board may spend money from that fund for that purpose.

Sec. 418.173. PENALTY FOR VIOLATION OF EMERGENCY MANAGEMENT PLAN.

- (a) A state, local, or interjurisdictional emergency management plan may provide that failure to comply with the plan or with a rule, order, or ordinance adopted under the plan is an offense.
- (b) The plan may prescribe a punishment for the offense but may not prescribe a fine that exceeds \$1,000 or confinement in jail for a term that exceeds 180 days.

Sec. 418.174. PERSONAL LIABILITY EXEMPTION OF MEMBER OF EMERGENCY PLANNING COUNCIL OR LOCAL EMERGENCY PLANNING COMMITTEE.

A member of the emergency management council established under Section 418.013 or of a local emergency planning committee established to develop an emergency management program in accordance with Subchapter E of this chapter is not personally liable for civil damages for an action arising from the performance of the person's duties on the council or committee.

Sec. 418.175. CERTAIN INFORMATION CONFIDENTIAL.

- (a) Information that relates to physically or mentally disabled individuals or other individuals with special needs and that is maintained for purposes of emergency management or disaster planning is confidential.
- (b) This section applies to information in the possession of any person, including:
 - (1) the state, an agency of the state, a political subdivision, or an agency of a political subdivision; or
 - (2) an electric, telecommunications, gas, or water utility.

Sec. 418.176. CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO EMERGENCY RESPONSE PROVIDERS.

- (a) Information is confidential if the information is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity and:

- (1) relates to the staffing requirements of an emergency response provider, including a law enforcement agency, a fire-fighting agency, or an emergency services agency;
 - (2) relates to a tactical plan of the provider; or
 - (3) consists of a list or compilation of pager or telephone numbers, including mobile and cellular telephone numbers, of the provider.
- (b) In this section and Sections 418.177-418.183, "governmental entity" includes the governing body of a nonprofit corporation organized under Chapter 67, Water Code, that provides a water supply or wastewater service, or both, and is exempt from ad valorem taxation under Section 11.30, Tax Code.

Sec. 418.177. **CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO RISK OR VULNERABILITY ASSESSMENT.** Information is confidential if the information:

- (1) is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity; and
- (2) relates to an assessment by or for a governmental entity, or an assessment that is maintained by a governmental entity, of the risk or vulnerability of persons or property, including critical infrastructure, to an act of terrorism or related criminal activity.

Sec. 418.178. **CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO CONSTRUCTION OR ASSEMBLY OF WEAPONS.**

- (a) In this section, "explosive weapon" has the meaning assigned by Section 46.01, Penal Code.
- (b) Information is confidential if it is information collected, assembled, or maintained by or for a governmental entity and:
 - (1) is more than likely to assist in the construction or assembly of an explosive weapon or a chemical, biological, radiological, or nuclear weapon of mass destruction; or
 - (2) indicates the specific location of:
 - (A) a chemical, biological agent, toxin, or radioactive material that is more than likely to be used in the construction or assembly of such a weapon; or
 - (B) unpublished information relating to a potential vaccine or to a device that detects biological agents or toxins.

Sec. 418.179. **CONFIDENTIALITY OF CERTAIN ENCRYPTION CODES AND SECURITY KEYS FOR COMMUNICATIONS SYSTEM.**

- (a) Information is confidential if the information:
 - (1) is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity; and
 - (2) relates to the details of the encryption codes or security keys for a public communications system.

- (b) This section does not prohibit a governmental entity from making available, at cost, to bona fide local news media, for the purpose of monitoring emergency communications of public interest, the communications terminals used in the entity's trunked communications system that have encryption codes installed.

Sec. 418.180. CONFIDENTIALITY OF CERTAIN INFORMATION PREPARED FOR UNITED STATES.

Information, other than financial information, in the possession of a governmental entity is confidential if the information:

- (1) is part of a report to an agency of the United States;
- (2) relates to an act of terrorism or related criminal activity; and
- (3) is specifically required to be kept confidential:
 - (A) under Section 552.101 because of a federal statute or regulation;
 - (B) to participate in a state-federal information sharing agreement; or
 - (C) to obtain federal funding.

Sec. 418.181. CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO CRITICAL INFRASTRUCTURE.

Those documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.

Sec. 418.182. CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO SECURITY SYSTEMS.

- (a) Except as provided by Subsections (b) and (c), information, including access codes and passwords, in the possession of a governmental entity that relates to the specifications, operating procedures, or location of a security system used to protect public or private property from an act of terrorism or related criminal activity is confidential.
- (b) Financial information in the possession of a governmental entity that relates to the expenditure of funds by a governmental entity for a security system is public information that is not excepted from required disclosure under Chapter 552.
- (c) Information in the possession of a governmental entity that relates to the location of a security camera in a private office at a state agency, including an institution of higher education, as defined by Section 61.003, Education Code, is public information and is not excepted from required disclosure under Chapter 552 unless the security camera:
 - (1) is located in an individual personal residence for which the state provides security; or
 - (2) is in use for surveillance in an active criminal investigation.

Sec. 418.183. DISCLOSURE OF CERTAIN CONFIDENTIAL INFORMATION.

- (a) This section applies only to information that is confidential under Sections 418.175-418.182.

- (b) At any time during a state of disaster, the executive or administrative head of the governmental entity may voluntarily disclose or otherwise make available all or part of the confidential information to another person or another entity if the executive or administrative head believes that the other person or entity has a legitimate need for the information.
- (c) The executive or administrative head of a port, port authority, or navigation district created or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, may voluntarily disclose or otherwise make available all or part of the confidential information to another person if the information:
 - (1) is shared in connection with a security network or committee, including a federal or state security committee or task force;
 - (2) consists of data, video, or other information on an information-sharing device that is shared with a security network; or
 - (3) is shared with an emergency operations center.
- (d) The disclosure or making available of confidential information by a hospital district to a national accreditation body does not waive or affect the confidentiality of the information.
- (e) The disclosure or making available of confidential information under Subsection (b) or (c) does not waive or affect the confidentiality of the information.
- (f) A governmental body subject to Chapter 551 is not required to conduct an open meeting to deliberate information to which this section applies. Notwithstanding Section 551.103(a), the governmental body must make a tape recording of the proceedings of a closed meeting to deliberate the information.